



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2929

Introduced 2/18/2016, by Sen. John G. Mulroe

SYNOPSIS AS INTRODUCED:

See Index

Amends the Hospital Licensing Act. Provides that a patient discharged to a skilled nursing facility who is not assessed prior to discharge or whose pre-screening information does not accompany the patient to the skilled nursing facility shall (i) be admitted to the skilled nursing facility pending the case coordination unit completing a post-screening evaluation or the delivery of the pre-screening information to the skilled nursing facility and (ii) be eligible for Medicaid funded care from the date of admission if the patient meets all eligibility criteria for medical assistance under the Illinois Public Aid Code. Amends the Illinois Public Aid Code. Provides that a nursing home resident determined to be eligible for medical assistance for long term care services shall be entitled to have his or her care paid retroactive to the date of admission to a nursing home or the date the resident converted from Medicare or private funds as a payer source if it is determined that the resident met the financial eligibility standards for medical assistance on the date of admission or conversion and the admission or conversion date is within the retroactive window established under the Code. Provides that an outstanding application for medical assistance for long term care services shall not be closed or denied based solely on the applicant's death or the absence of certain documentation if services authorized under the Code were provided pending a determination of eligibility. Provides that a nursing home resident who is unable to comply in securing financial documents requested by the Department of Healthcare and Family Services to prove financial eligibility shall be assigned a long term care ombudsman to assist the resident in securing medical assistance.

LRB099 20556 KTG 45107 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Hospital Licensing Act is amended by
5 changing Section 6.09 as follows:

6 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

7 Sec. 6.09. (a) In order to facilitate the orderly
8 transition of aged patients and patients with disabilities from
9 hospitals to post-hospital care, whenever a patient who
10 qualifies for the federal Medicare program is hospitalized, the
11 patient shall be notified of discharge at least 24 hours prior
12 to discharge from the hospital. With regard to pending
13 discharges to a skilled nursing facility, the hospital must
14 notify the case coordination unit, as defined in 89 Ill. Adm.
15 Code 240.260, at least 24 hours prior to discharge. When the
16 assessment is completed in the hospital, the case coordination
17 unit shall provide the discharge planner with a copy of the
18 prescreening information and accompanying materials, which the
19 discharge planner shall transmit when the patient is discharged
20 to a skilled nursing facility. Notwithstanding any other
21 provision of law to the contrary, a patient discharged to a
22 skilled nursing facility who is not assessed prior to discharge
23 or whose pre-screening information does not accompany the

1 patient to the skilled nursing facility shall be admitted to
2 the skilled nursing facility pending the case coordination unit
3 completing a post-screening evaluation or the delivery of the
4 pre-screening information to the skilled nursing facility by
5 the case coordination unit and shall be eligible for Medicaid
6 funded care from the date of admission if the patient meets all
7 eligibility criteria for medical assistance set forth under
8 Article V of the Illinois Public Aid Code. If home health
9 services are ordered, the hospital must inform its designated
10 case coordination unit, as defined in 89 Ill. Adm. Code
11 240.260, of the pending discharge and must provide the patient
12 with the case coordination unit's telephone number and other
13 contact information.

14 (b) Every hospital shall develop procedures for a physician
15 with medical staff privileges at the hospital or any
16 appropriate medical staff member to provide the discharge
17 notice prescribed in subsection (a) of this Section. The
18 procedures must include prohibitions against discharging or
19 referring a patient to any of the following if unlicensed,
20 uncertified, or unregistered: (i) a board and care facility, as
21 defined in the Board and Care Home Act; (ii) an assisted living
22 and shared housing establishment, as defined in the Assisted
23 Living and Shared Housing Act; (iii) a facility licensed under
24 the Nursing Home Care Act, the Specialized Mental Health
25 Rehabilitation Act of 2013, the ID/DD Community Care Act, or
26 the MC/DD Act; (iv) a supportive living facility, as defined in

1 Section 5-5.01a of the Illinois Public Aid Code; or (v) a
2 free-standing hospice facility licensed under the Hospice
3 Program Licensing Act if licensure, certification, or
4 registration is required. The Department of Public Health shall
5 annually provide hospitals with a list of licensed, certified,
6 or registered board and care facilities, assisted living and
7 shared housing establishments, nursing homes, supportive
8 living facilities, facilities licensed under the ID/DD
9 Community Care Act, the MC/DD Act, or the Specialized Mental
10 Health Rehabilitation Act of 2013, and hospice facilities.
11 Reliance upon this list by a hospital shall satisfy compliance
12 with this requirement. The procedure may also include a waiver
13 for any case in which a discharge notice is not feasible due to
14 a short length of stay in the hospital by the patient, or for
15 any case in which the patient voluntarily desires to leave the
16 hospital before the expiration of the 24 hour period.

17 (c) At least 24 hours prior to discharge from the hospital,
18 the patient shall receive written information on the patient's
19 right to appeal the discharge pursuant to the federal Medicare
20 program, including the steps to follow to appeal the discharge
21 and the appropriate telephone number to call in case the
22 patient intends to appeal the discharge.

23 (d) Before transfer of a patient to a long term care
24 facility licensed under the Nursing Home Care Act where elderly
25 persons reside, a hospital shall as soon as practicable
26 initiate a name-based criminal history background check by

1 electronic submission to the Department of State Police for all
2 persons between the ages of 18 and 70 years; provided, however,
3 that a hospital shall be required to initiate such a background
4 check only with respect to patients who:

5 (1) are transferring to a long term care facility for
6 the first time;

7 (2) have been in the hospital more than 5 days;

8 (3) are reasonably expected to remain at the long term
9 care facility for more than 30 days;

10 (4) have a known history of serious mental illness or
11 substance abuse; and

12 (5) are independently ambulatory or mobile for more
13 than a temporary period of time.

14 A hospital may also request a criminal history background
15 check for a patient who does not meet any of the criteria set
16 forth in items (1) through (5).

17 A hospital shall notify a long term care facility if the
18 hospital has initiated a criminal history background check on a
19 patient being discharged to that facility. In all circumstances
20 in which the hospital is required by this subsection to
21 initiate the criminal history background check, the transfer to
22 the long term care facility may proceed regardless of the
23 availability of criminal history results. Upon receipt of the
24 results, the hospital shall promptly forward the results to the
25 appropriate long term care facility. If the results of the
26 background check are inconclusive, the hospital shall have no

1 additional duty or obligation to seek additional information
2 from, or about, the patient.

3 (Source: P.A. 98-104, eff. 7-22-13; 98-651, eff. 6-16-14;
4 99-143, eff. 7-27-15; 99-180, eff. 7-29-15; revised 10-14-15.)

5 Section 10. The Illinois Public Aid Code is amended by
6 changing Sections 5-2.1d and 5-6 and by adding Section 5-6a as
7 follows:

8 (305 ILCS 5/5-2.1d)

9 Sec. 5-2.1d. Retroactive eligibility.

10 (a) An applicant for medical assistance may be eligible for
11 up to 3 months prior to the date of application if the person
12 would have been eligible for medical assistance at the time he
13 or she received the services if he or she had applied,
14 regardless of whether the individual is alive when the
15 application for medical assistance is made. In determining
16 financial eligibility for medical assistance for retroactive
17 months, the Department shall consider the amount of income and
18 resources and exemptions available to a person as of the first
19 day of each of the backdated months for which eligibility is
20 sought.

21 (b) A nursing home resident determined to be eligible for
22 medical assistance for long term care services shall be
23 entitled to have his or her care paid retroactive to the date
24 of admission to a nursing home or the date the resident

1 converted from Medicare or private funds as a payer source if
2 it is determined that the resident met the financial
3 eligibility standards set forth in this Code on the date of
4 admission or conversion and the admission or conversion date is
5 within the retroactive window established in subsection (a)
6 regardless of whether a case coordination unit had completed a
7 screening in advance of admission or the facility submitted
8 admission materials on the date of admission or conversion.

9 (Source: P.A. 97-689, eff. 6-14-12.)

10 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

11 Sec. 5-6. Obligations incurred prior to death of a
12 recipient.

13 (a) Obligations incurred but not paid for at the time of a
14 recipient's death for services authorized under Section 5-5,
15 including medical and other care in facilities as defined in
16 the Nursing Home Care Act, the Specialized Mental Health
17 Rehabilitation Act of 2013, the ID/DD Community Care Act, or
18 the MC/DD Act, or in like facilities not required to be
19 licensed under that Act, may be paid, subject to the rules and
20 regulations of the Illinois Department, after the death of the
21 recipient.

22 (b) An outstanding application for medical assistance for
23 long term care services shall not be closed or denied based
24 solely on the applicant's death or the absence of documentation
25 the applicant failed to provide prior to the applicant's death

1 if services authorized under Section 5-5 were provided pending
2 a determination of eligibility. In the case of missing
3 documentation, the Department shall request the information
4 from the financial institution. If the financial institution
5 fails to comply with the request, the Department shall notify
6 the Secretary of the Department of Financial and Professional
7 Regulation, who shall take all steps necessary to ensure
8 compliance. Before an application is closed or denied on an
9 applicant's death, the Department shall determine if
10 outstanding obligations for authorized services exist. The
11 provider of the services shall have 12 months from the date the
12 application was closed or denied to request payment for
13 services rendered in good faith and the Department shall make
14 every attempt to accommodate the request, unless the Department
15 has proof that the services were not rendered or were not
16 rendered in good faith. The provider shall have 36 months from
17 the date of the resident's death to seek compensation through
18 the Court of Claims.

19 (Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

20 (305 ILCS 5/5-6a new)

21 Sec. 5-6a. Long term care ombudsman; nursing home resident.
22 A nursing home resident who is unable to comply in securing
23 financial documents requested by the Department to prove
24 financial eligibility and whose family is unable or unwilling
25 to secure the requested documents on the resident's behalf

1 shall be assigned a long term care ombudsman from the Long Term
2 Care Ombudsman Program established under Section 4.04 of the
3 Illinois Act on the Aging to assist the resident in securing
4 medical assistance for long term care services. The long term
5 care ombudsman shall work with: (i) the resident; (ii) the
6 resident's family, to the extent they are willing to
7 participate; (iii) the facility; and (iv) the Department of
8 Human Services and the Department of Healthcare and Family
9 Services' Office of the Inspector General to successfully
10 secure long term care benefits for the resident. The Department
11 of Human Services and the Department of Healthcare and Family
12 Services' Office of the Inspector General shall be responsible
13 for requesting missing financial documentation from financial
14 institutions on behalf of the resident. The Secretary or
15 Director of the requesting Department shall report to the
16 Secretary of the Department of Financial and Professional
17 Regulation any financial institution that fails to comply with
18 a request for missing financial documentation. The Secretary of
19 the Department of Financial and Professional Regulation shall
20 take all steps necessary to ensure compliance. The Long Term
21 Care Ombudsman Program shall be reimbursed for services
22 provided pursuant to this Section on a per client basis at a
23 rate established by the Department on Aging from federal Civil
24 Monetary Funds overseen by the Department of Public Health.

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2

Statutes amended in order of appearance

3

210 ILCS 85/6.09

from Ch. 111 1/2, par. 147.09

4

305 ILCS 5/5-2.1d

5

305 ILCS 5/5-6

from Ch. 23, par. 5-6

6

305 ILCS 5/5-6a new